IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2277 OF 2005

Bajirao Ramchandra Gondhale ..Petitioner.

Versus

Shri Nitin Yashwant Kamble & Anr. ..Respondents.

Mr.A.A. Garge for the Petitioner.

Mr. Anil Wagh for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 16TH SEPTEMBER, 2005.

P.C.:

1. The petitioner has challenged the refusal dated 28.01.2005 by the Asstt. Charity Commissioner, Sangli Region, Sangli, to take on record the documents tendered by him in evidence. According to the petitioner, the documents ought to have been accepted by the court in view of section 90 of the Indian Evidence Act since the documents are more than 30 years old. The documents in question are letters written by the Secretary of Guruvarya Tirmare Felicitation Committee, Sangli dated 24.01.1964 and

29.06.1964 and the news published in news paper "Dalit Sevak" dated 16.10.1964, daily "Tarun Bharat" dated 04.09.1961 and invitation card regarding programme of celebration of felicitation of Shri Tirmare dated 10.09.1961 alongwith photograph of Dr. Bapat Vidhyarthi Vastigruha.

2. The trial court has refused to accept these documents under section 90 of the Evidence Act on the ground that they have not come from proper custody. This is a matter essentially within the discretion of the trial court. Even otherwise, the petitioner has not been able to point out the relevance of those documents to his prayer for having the scheme accepted under section 50A(1) of the Bombay Public Trust Act.

3. In the circumstances, I see no reason to interfere with the impugned order. In case the decision goes adverse to the petitioner, the petitioner would be entitled to raise this ground in appeal or in revision as may be advised.

4. Petition is dismissed with the above observation.

DT.16.09.05 (S.A.BOBDE,J)

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